

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:11-CV-00195-F

MILTON EVANS, )  
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                  )  
                  )  
                  )  
Plaintiff,      )  
                  )  
                  )  
                  )  
                  )  
v.                )  
                  )  
BANK OF AMERICA CORPORATION, )  
                  )  
                  )  
                  )  
Defendant.      )

**ORDER**

This matter is before the court on the *pro se* Plaintiff's response [DE-3], captioned "Motion to Dismiss Complaint," to this court's April 27, 2011, Order to Particularize [DE-2].

Plaintiff filed an application to proceed *in forma pauperis* [DE-1] on April 21, 2011, and attached a proposed complaint. In an order filed on April 27, 2011, United States Magistrate Judge William A. Webb ordered Plaintiff to particularize both his application and his proposed complaint. In response to Judge Webb's Order, Plaintiff filed the Motion to Dismiss, wherein he seeks to withdraw the complaint from the record. Plaintiff specifically states he "seeks the dismissal of the complaint to be without prejudice[]." Mot. to Dismiss Compl. [DE-3].

Because Plaintiff failed to particularize his application and proposed complaint, however, there is no complaint to be dismissed. Instead, based on Plaintiff's stated request, the court DENIES the application [DE-1] as MOOT and DIRECTS the Clerk of Court to close this case.

SO ORDERED. This, the 5th day of May, 2011.

James C. Fox  
James C. Fox  
Senior United States District Judge